

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

CASE NO. 22-CR-00150-LK

Plaintiff,

SECOND ORDER CONTINUING TRIAL

BRIAN MICHAEL WARNOCK,

Defendant.

This matter comes before the Court on Defendant Brian Michael Warnock's Amended Proposed Motion to Continue Trial and Reset Motions Deadline, Dkt. No. 45, as well as his trial waiver, Dkt. No. 46.¹ On September 21, 2022, a federal grand jury indicted Mr. Warnock with one count of Possession of a Controlled Substance with Intent to Distribute, two counts of Unlawful Possession of a Firearm, and one count of Possession of a Firearm in Furtherance of a Drug Trafficking Crime. Dkt. No. 16 at 1–3; *see* 21 U.S.C. § 841(a)(1), (b)(1)(B); 18 U.S.C. §§ 922(g)(1), 924(c)(1)(A)(i). He pleaded not guilty to all counts. Dkt. No. 22. Although

¹ The Clerk is directed to terminate as moot Mr. Warnock's Unopposed Motion to Continue Trial and Reset Motions Deadline, Dkt. No. 43.

1 Mr. Warnock's jury trial was originally slated to begin on November 28, 2022, *id.*, the Court
2 previously granted in part his unopposed motion to continue trial to May 30, 2023, Dkt. No. 27.

3 Mr. Warnock now requests a second continuance to January 8, 2024, and wishes to reset
4 the pretrial motions deadline accordingly. Dkt. No. 45 at 1. The Court appointed Mr. Warnock's
5 current counsel in April 2023 after his previous attorney withdrew. Dkt. Nos. 40–42. Counsel
6 asserts that he has since "endeavored to review the discovery received from the Government and
7 to investigate any legal or factual defenses." Dkt. No. 45 at 1. He has also met with Mr. Warnock
8 to discuss this case and his "overall legal situation[.]" *Id.* However, counsel's progress was delayed
9 due to a COVID-19-related quarantine. *Id.* at 2. Given these facts and his recent appointment,
10 counsel believes that a continuance is necessary to effectively prepare for trial. *Id.* Mr. Warnock
11 avers that he has consulted with counsel and knowingly and voluntarily waives his speedy trial
12 right, and consents to a continuance of his trial date to on or before January 22, 2024. Dkt. No. 46
13 at 1.

14 Pursuant to 18 U.S.C. § 3161(h)(7)(A), the Court finds that the ends of justice served by
15 granting a continuance outweigh the best interest of the public and Mr. Warnock in any speedier
16 trial. Specifically, the Court finds that failure to grant the requested continuance would likely result
17 in a miscarriage of justice and would deny defense counsel the reasonable time necessary for
18 effective preparation, taking into account the exercise of due diligence, due to counsel's need for
19 more time to review the evidence, consider possible defenses, and gather evidence material to the
20 defense. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The Court also finds that the additional time
21 requested is a reasonable period of delay and will be necessary to provide counsel and Mr.
22 Warnock reasonable time to accomplish these tasks and prepare for trial.

23 For these reasons, the Court ORDERS that trial shall be continued from May 30, 2023 to
24 January 8, 2024. It is further ORDERED that, pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B), the

1 period of delay from the date of this Order to the new trial date is EXCLUDED when computing
2 the time within which Mr. Warnock's trial must commence under the Speedy Trial Act. Pretrial
3 motions are due no later than November 27, 2023.

4 Dated this 4th day of May, 2023.

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7 Lauren King
8 United States District Judge
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